

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TEXAS
TEXARKANA DIVISION**

ERIC J. PAYNE

vs.

JOHN MCHUGH, Secretary of the Army

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CASE NO. 5:07-CV-162-DF-CE

ORDER

Pending before the court is the defendant's motion to strike (Dkt. No. 63). The defendant argues that the court should strike evidence in the plaintiff's surreply to the defendant's motion for summary judgment. Alternatively, the defendant seeks leave to file a sur-surreply.

The defendant's motion to strike is DENIED. The alternative request to file a sur-surreply is also DENIED.

SIGNED this 31st day of March, 2010.


CHARLES EVERINGHAM IV
UNITED STATES MAGISTRATE JUDGE